

REMARKS

This amendment is submitted in response to the Decision on Appeal dated June 20, 2007 and to the Advisory Action that was mailed on July 23, 2007. Reconsideration and allowance is respectfully requested in view of the remarks made below.

1. The Decision on Appeal

The Decision on Appeal dated June 20, 2007 affirmed the prior art rejections of claims 5-8 and 13-15. The prior art rejections of claims 9-12 were reversed. The provisional obviousness type double patenting rejection of claims 5-15 were affirmed.

2. The Terminal Disclaimer

The Terminal Disclaimer that was filed on January 17, 2007 should obviate the obviousness-type double patenting issues. Entry of the Terminal Disclaimer and Withdrawal of the obviousness-type double patenting rejections is respectfully requested. In addition, it should be noted that claims 4-7 of co-pending Application 09/902,904 (on which the provisional obviousness-type double patenting rejections were based) have been cancelled, thus mooting the basis for the provisional rejections.

3. Applicant's Amendment

Applicant has canceled all of the claims in which the prior art rejections were affirmed, and has amended claim 9 into independent form, including all of the limitations of the base claim 5.

Accordingly, all of the claims presently pending should be allowable over the prior art of record, and a Notice indicating such is respectfully solicited in the next Official Communication.

MPEP 1214.06 (I)(B) states that the appropriate procedure in cases following an appeal decision in which no claims stand allowed but rejections against a dependent claim have been reversed is as follows:

(B) If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, ** after expiration of the period for further appeal, >the examiner< should proceed in one of two ways:

- (1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or
- (2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.

This amendment is intended to save the Examiner's time and expedite the process by placing the dependent claims against which rejections have been reversed into independent form or depending from claims that have been so rewritten.

4. Conclusion

Applicant has made an earnest effort to place this application in condition for allowance. If the Examiner feels that a telephone interview would expedite prosecution of this patent application, he is respectfully invited to telephone the undersigned at 215-599-0600.

Respectfully submitted,
/John L. Knoble/

John L. Knoble
Registration No. 32,387

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KNOBLE YOSHIDA & DUNLEAVY, LLC
Eight Penn Center- Suite 1350
1628 John F. Kennedy Boulevard
Philadelphia, PA 19103

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LITIGATED REISSUE

(215) 599-0600